

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

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DIVISION II
2020 SEP 30 AM 9:02
STATE OF WASHINGTON
BY KS
DEPUTY

STATE OF WASHINGTON)

Respondent,)

v.)

Denver L. Shopp
(your name)

Appellant.)

No. 54197-1-II

STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

I, Denver L. Shopp, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

Additional Ground 2

If there are additional grounds, a brief summary is attached to this statement.

Date: 9/25/2020

Signature: Denver Shopp

Court of Appeals, Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454

September 25, 2020

Statement of Additional Grounds

State of Washington v. Denver Shoop Case No. 54197-1-II

Additional Grounds 1:

I was charged with 8 counts of animal cruelty, however only seven bison were confiscated; one bull was never seized as he was too difficult to handle. Center Valley Animal Rescue (CVAR) returned another day and sedated the bull which then made it impossible for him to be loaded. They decided they would leave the bull. Therefore, there were only seven counts to consider for trial, not eight. I repeatedly told my Defense Attorney, Jack Range, only seven bison were taken. This was never corrected throughout both trials. In addition to the bull, there were also two steers left on the property.

Additional Grounds 2:

A prosecution witness, Mr. Terry Taylor, an animal control officer, testified I told him I couldn't afford supplemental feed for my bison. This testimony was false. I never expressed fear that if I fed my animals more hay I would run out. I periodically put hay out and adjusted the amount fed the following day based on how much was eaten. It was Spring and the pastures were green for all animals to graze. Animals prefer the green pasture grass over hay. Additionally, hay was something I rarely needed to purchase as I cut and baled my own hay every Spring for Winter supplemental feeding, frequently having enough to share with neighboring farmers. Unfortunately, my attorney, Jack Range, never challenged any of Mr. Taylor's testimony nor allowed me time on the stand to dispute these statements.

Additional Grounds 3:

Part of the accusations against me for animal cruelty included dehydration. Prosecution witness, Mr. Taylor, stated that I told him I intended to withhold water from the bison for "several days to a week". This statement was false. I did have a conversation with Mr. Taylor regarding the need to apply parasite medication to the animals and my plan to do so. We had a very wet spring and the fields were flooded. The bison would drink from the fields and not come to the trough for water which allowed me access to them to apply the parasite medication. I told Mr. Taylor once the fields dried, I intended to withhold water for 24 hours to ensure that all of the bison would come to the trough for water. This would allow me the opportunity to treat the herd. During the trial, I informed my attorney, Jack Range, this testimony was inaccurate, even providing receipts for the purchase of the medication, but he never challenged any of Mr. Taylor's testimony and I was never given the chance to testify on my behalf.

Additional Grounds 4:

Veterinarian, Dr. Jan Richards, a member of the board at Center Valley Animal Rescue (CVAR), testified the animals quickly regained strength and energy after they were taken from me. Sara Penhallegon, the director of CVAR that housed the bison, claimed each gained 20 to 75 pounds in the days following their arrival at her center. As posted on the rescue center's Facebook site, she claimed the bison would have been dead within two days if they hadn't been rescued. Then she states by the second day they were so

frisky they had to be separated. Nothing that is starved and near death can be revived within that period. Bison are a docile animal and do not like to be handled. The "frisky" state she's speaking of would be a reaction to being handled. Again, this information was made available to the defense but was never presented.

Additional Grounds 5:

In order to be convicted of animal cruelty, one or more of the following must be proved:

Dehydration – I had no means to keep the animals from the water in the fields and the defense would not present that fact.

Suffocation – as previously stated, bison don't like to be handled and I had no way to physically contain them to enable suffocation.

Starvation – Bone marrow was sent for evaluation and the results indicated the animals did not suffer from starvation. In a pretrial hearing, that I was not offered the opportunity to attend, the defense attorney allowed that evidence thrown out. I was in disbelief when Mr. Range tried to convince me "it is always good when you can get something thrown out." I argued how could throwing something out that shows their claims of starvation weren't valid be good. His response was "well, it is already thrown out and we cannot use it."

In addition, prior to the first trial, the prosecution sent blood samples to a lab for evaluation.

Repeatedly, I requested the evaluation results, being told they hadn't received the results yet. I kept requesting the results, and as the first trial drew to a close and defense hadn't received the results, I instructed Mr. Range to address that issue at the pretrial hearing. In that hearing, defense addressed Judge Harper arguing they had never received the results of the blood test. The prosecution adamantly advised she had given the defense the report and they must have lost it. Judge Harper then angrily accused the defense of receiving the results and losing it. During the first trial, as well as the second trial, they continued to use starvation for means of a conviction. When the verdict was announced in the first trial and it was a hung jury the prosecution approached the bench and told the Judge she didn't want to get into trouble and apologized, she just remembered, she hadn't given the defense a copy of the blood test report. Post-trial defense received a copy of the blood test results showing it was inconclusive. Yet, during the first trial and **continuing through the second trial, they used cruelty by starvation**. The defense, nor the Judge, took any action with this post-trial confession and especially the fact they continued to use starvation while withholding the truth.

Additional Grounds 6:

Per E Argument (see Brief of Appellant): Prosecution did not provide any evidence of suffocation. Evidence of dehydration was only mentioned in passing. They still published/verbalized through media (newspaper and TV news) as well as CVAR's Facebook site, the cruelty (Suffocation, Dehydration, Starvation) suffered at my hands. Again, defense would not allow me to provide a statement to the media or allow me to testify in my defense at trial.

I advised defense, if the bison hadn't responded to the medication once I was able to administer, I suspected they may have liver fluke. I had been advised there were fields near mine that raised sheep, and that could possibly play a role in my livestock acquiring liver fluke. Post trial my son, Andy Shoop, had the two remaining steers butchered and both had liver fluke.

My livestock were not separated, and all shared the same grassy pastures and the hay that was distributed. They also drank from the troughs but would opt for the fresh ground water when available. That is conducive to animal nature.

Even if they didn't/couldn't prove any of these charges, the general public didn't know anything but what the prosecution presented along with the media and CVAR's Facebook page. To this day, I am still taunted in public regarding my cruelty to animals.

Additional Grounds 7:

I requested a change of venue due to the immense media coverage and the daily postings on the CVAR Facebook page of my animal cruelty, as well as information obtained from the first trial jury. My request for a change of venue was denied. After the first trial's hung jury, the defense was approached by the lone juror who held out against conviction. She shared with the defense there were originally five jurors voting not guilty stating prosecution had not provided any proof to the charges. She also advised they had been bullied and she had been threatened and was very concerned for her safety and that of her family. Four of the jurors then agreed to a guilty verdict. She also advised when they were chosen for jury duty, one juror stated he did not need to hear any testimony as he already knew I was guilty. The jurors claimed I was guilty because I never tried to defend myself. She also advised the defense the jurors discussed with family members and friends they had contacted that were going to watch the news and report to them what was being said. Each morning they discussed what they found out the night before. It is not known if the defense shared this information with Judge Harper. When the trial was over and was a hung jury, I asked my defense attorney why he never presented any of the information he was provided to defend me and my attorney, Jack Range, commented the prosecution didn't present any real evidence so he didn't think he needed to. I replied, and I was almost convicted. During the second trial, the defense still did not utilize any of the information and proof that disputed the prosecution's charges.

Additional Grounds 8:

I requested a new defense attorney due to lack of representation and my request was denied. I repeatedly asked to be able to testify on my own behalf and was denied. I asked for the ability to acquire a bison expert and was told it would cost too much. I had a list of witnesses to be called in my defense and my attorney didn't utilize the witnesses I requested. One witness came to court and my attorney told her to go home she wasn't needed (without my knowledge or consent). The few witnesses my attorney did call to testify weren't asked questions sufficient to challenge claims made by the prosecution or correct erroneous testimony. There were several witnesses on the list who have known me for years and could have provided testimony of my care of the animals. One helped me put up hay for winter, another I paid to provide care in my absence. At one point my defense attorney asked to be removed from the case and the judge denied the request stating the court would have to appoint an attorney, not a public defender, and it would be too expensive. My attorney should have argued that animal cruelty is not a felony, but a misdemeanor unless the prosecution could prove maliciousness or extreme indifference to life. How could indifference to life be considered when the medicine purchase to treat these animals cost over half of my monthly income?